

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THOMAS W. TREFNY,
Plaintiff

v.

HYANNIS HARBOR TOURS, INC.,
Defendant

CIVIL ACTION No. 04-10798-NG

DECLARATION OF ROBERT BAZYDLO

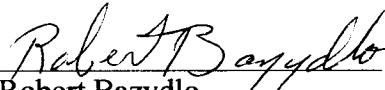
Robert Bazydlo does hereby declare as follows, all pursuant to 28 U.S.C §1746:

1. I was master of the *Grey Lady II* on July 26, 2002, during the evening when Thomas Trefny had a problem with his right knee. I was present on the dock at the time he claimed to be injured. I make the statements in this declaration based on my own personal knowledge.
2. I was present nearby when Trefny went up the gangway onto the vessel. I was not looking directly at him at the precise moment he claims the incident occurred, but I specifically remember seeing him immediately after he reached the deck of the vessel. This would have been within five seconds of his actually starting up the gangway. I distinctly recall seeing him on the main deck of the *Grey Lady II* and seeing him making motions suggesting he was experiencing discomfort with his knee.
3. He told me that his knee had “just gone out.” He said that this happened to him from time to time, and he said he thought it would be all right before long, as in the past. He didn’t say or suggest that anything about the vessel or the gangway played any role in his problem.
4. The gangway was designed with a tight pattern of perforations in its walking surface. This meant that much of the gangway surface was open, so that light could pass through. This meant that it was impossible for fluids to pool or accumulate on the surface of the

gangway, because even if water were *poured* on it, it would pass right through. On the day in question, however, conditions were dry, and so was the gangway.

5. On the evening of July 26, 2002, I saw the gangway as I walked across it to board the vessel. I also saw it as it was being detached from the vessel to allow us to depart. The gangway was in its normal condition, with no foreign object or substance on it, and had no damage, change, or modification to its ordinary condition. The gangway was not defective or abnormal in any way, and it was reasonably fit for its intended use.

Signed under the penalties of perjury this 7th day of April 2005, at Marstons Mills, Massachusetts.


Robert Bazydlo